

From: Bill Zaumen
To: Microsoft ATR
Date: 1/27/02 6:27pm
Subject: Comments on Proposed Settlement

While I have to wonder if a full breakup of Microsoft is not the only effective remedy, the proposed settlement is inadequate even in what it tries to do.

1. The settlement treats consumers as second-class citizens. For example, on page 6, it prevents Microsoft's software from automatically altering an OEM's configuration without first waiting 14 days and asking the user for permission. Nothing, however, tells them to similarly respect a user's configuration---one set by the user regardless of what the OEM did.
2. It is ineffective in some respects. For instance, while it allows Microsoft to ask a user if he or she would like to change a configuration and requires that all options be fairly presented to the user, it does not prevent the obvious tactic: to badger the user to change the settings to ones Microsoft desires and then say nothing after a user does that. Since with enough repeated tries, a user will eventually click an unintended option, the result will be to move users to Microsoft products whether the users want to do that or not.
3. Under "III Prohibited Conduct," the settlement prevents Microsoft from retaliating against an OEM that includes both a Microsoft OS and some other OS. Other provisions deal with dual booting. Nowhere does it say, however, that Microsoft cannot retaliate against an OEM that provides customers the option of obtaining a computer without any Microsoft OS at all. I really have to wonder about this. A while ago, I read that Dell was again selling Linux systems. When I checked Dell's web site, it contained a page with links to Linux systems for the federal government, businesses, and businesses and small offices. Of these three links, two were broken. The only one that functioned was the one for the U.S. government. When you found something about a system where you could run Linux, and clicked on a link, you'd be taken to a windows-only page. I think it is apparent that Dell is discouraging customers from buying Linux systems. With the whole PC industry having serious difficulties attracting customers, I've really got to wonder why anyone would throw customers away. One explanation for this behavior could be pressure from Microsoft. As a consumer, I want protection against that (regardless of whether or not this is what is going on in Dell's case).
4. The settlement has a loophole about disclosing APIs if that would compromise security, digital rights management, anti-virus technology, etc. It is well known that security through obscurity is no security at all. This loophole will not protect computer systems, but it will

provide Microsoft an excuse for divulging nothing about APIs or anything else.

I would strongly recommend starting from scratch and proposing a settlement that would actually do something to protect the public and other businesses.

Regards,

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PS as a disclosure, I work for one of Microsoft's competitors. My comments above are personal ones.